Declassified/Released US Department of State EO Systematic Review 30 JUN 2005

Message Text

LIMITED OFFICIAL USE

PAGE 01 GENEVA 03524 01 OF 02 041745Z

43
ACTION EB-11

INFO OCT-01 ISO-00 AGR-20 CEA-02 CIAE-00 COME-00 DODE-00

FRB-02 H-03 INR-10 INT-08 L-03 LAB-06 NSAE-00 NSC-07

PA-04 RSC-01 AID-20 CIEP-02 SS-20 STR-08 TAR-02

TRSE-00 USIA-15 PRS-01 SP-03 FEAE-00 OMB-01 SWF-02

AF-10 ARA-16 EA-11 EUR-25 NEA-14 OIC-04 IO-14 XMB-07

OPIC-12 DRC-01 /266 W
---------- 012307
R 041620Z JUN 74
FM USMISSION GENEVA
TO SECSTATE WASHDC 6230
INFO AMEMBASSY BERN
AMEMBASSY BONN
AMEMBASSY BOGOTA
AMEMBASSY BRUSSELS
USMISSION EC BRUSSELS
AMEMBASSY BUENOS AIRES
AMEMBASSY CANBERRA
AMEMBASSY COPENHAGEN
AMEMBASSY DUBLIN
AMEMBASSY THE HAGUE
AMEMBASSY HELSINKI
AMEMBASSY KUALA LUMPUR
AMEMBASSY LONDON
AMEMBASSY LUXEMBOURG
AMEMBASSY MEXICO
AMEMBASSY NEW DELHI
AMEMBASSY OSLO
AMEMBASSY OTTAWA
AMEMBASSY PARIS
USMISSION OECD PARIS
AMEMBASSY PRETORIA
AMEMBASSY ROME
AMEMBASSY STOCKHOLM
LIMITED OFFICIAL USE

LIMITED OFFICIAL USE

PAGE 02 GENEVA 03524 01 OF 02 041745Z

AMEMBASSY TOKYO

Declassified/Released US Department of State EO Systematic Review 30 JUN 2005

Declassified/Released US Department of State EO Systematic Review 30 JUN 2005

AMEMBASSY WELLINGTON

LIMITED OFFICIAL USE SECTION 1 OF 2 GENEVA 3524

E.O. 11652: NA
TAGS: ETRD, GATT
SUBJ: TNC SUBGROUP ON NTBS (3B)-SUBSIDIES AND COUNTER-
VAILING-MAY 29-31

BEGIN SUMMARY: TNC GROUP 3(B) MET MAY 29-31 TO
CONTINUE DISCUSSION STARTED IN COMMITTEE ON TRADE IN
INDUSTRIAL PRODUCTS (CTIP) ON EXPORT SUBSIDIES AND
COUNTERVAILING DUTIES (CVD). NO CONSENSUS REACHED ON
DIRECTION TO TAKE IN MOVING TOWARD OVERALL SOLUTION TO SUBSIDY
CVD PROBLEMS. CANADA, EC AND JAPAN PRESSED U.S. ON LACK
OF CVD INJURY REQUIRMENT AND SHOWED NO WILLINGNESS TO MOVE
TOWARD SERIOUS NEGOTIATIONS AT THIS TIME. ALTHOUGH THEIR PRIMARY
FOCUS WAS CVD, THEY DID INDICATE SOME WILLINGNESS TO WORK ON
LIST OF PROHIBITED EXPORT SUBSIDIES AFTER U.S. GETS TRADE BILL.
END SUMMARY.

1. EXPORT SUBSIDIES. U.S. (KELLY LED OFF BY SUGGESTING GROUP
MAKE A FRESH START AND INVITING VIEWS ON DIRECTION GROUP TAKE
IN SEARCH OF SOLUTION TO SUBSIDY/CVD PROBLEM. HE STATED U.S.
UNDERSTANDING IS THAT GROUP MOVING TOWARD OVERALL SOLUTION TO
THESE RELATED PROBLEMS BY DEVELOPING EFFECTIVE RULES COVERING
BOTH PRIMARY AND NON-PRIMARY PRODUCTS. HE SUGGESTED COUNTRIES
MIGHT BEGIN BY RESPONDING TO QUESTIONS ON SUBSIDIES POSED BY
U.S. (MTN/3B/W/2).

2. EC(MEYNELL) SAID TASK OF GROUP IS TO REMOVE BARRIERS TO
TRADE AND CLEARLY IMPLIED THAT LACK OF INJURY TEST IN U.S.
COUNTERVAILING DUTY LAW IS PRIMARY PROBLEM IN THIS AREA.
EC ARGUED SOLTION SHOULD BE BASED ON EXISTING GATT
PROVISION. THEREFORE, ACCEPTANCE OF RIGHTS AND OBLIGATIONS
UNDER THESE PROVISIONS MEANS PROTOCOL OF PROVISIONAL
APPLICATION MUST BE DROPPED. U.S. SAID WE WILLING TO WORK
TOWARD RULES THAT WOULD MAKE IT POSSIBLE TO ELIMINATE
EXCEPTIONS UNDER PROTOCOL. IN FACT THIS IS ONE OF PURPOSES
LIMITED OFFICIAL USE

LIMITED OFFICIAL USE

OF GROUP. EC MADE PRO FORMA RESPONSE TO U.S. COMMENT ON
INCLUSION OF PRIMARY PRODUCTS IN WORKING ASSUMPTIONS POINTING
OUT TERMS OF REFERENCE LIMITED TO CHAPTERS 25-99.

3. IN LONG INTERVENTION ALONG LINES OF EC STATEMENT, SUGGESTING
COORDINATION WITH EC, CANADA (GREY) STATED EXISTING GATT PRO-
VISIONS GENERALLY ADEQUATE AND OPEN TO LIMITED NEGOTIATION FOR
IMPROVEMENTS. (GREY STATMENT REPRODUCED AS MTN/3B/W/5.)

Declassified/Released US Department of State EO Systematic Review 30 JUN 2005

Declassified/Released US Department of State EO Systematic Review 30 JUN 2005

IN REFERENCE TO U.S., HE SAID CVD PROBLEM STEMS FROM COUNTRIES UNWILLING TO ABIDE BY RULES, AND THAT PROTOCOL OF PROVISIONAL APPLICATION SHOULD NOT BE CONSIDERED A RIGHT UNDER GENERAL AGREEMENT. THUS COUNTRIES SHOULD NOT REQUIRE PAYMENT FOR ITS REMOVAL. U.S. QUERIED IF THIS MEANT CANADA WOULD NOT REEQUEST PAYMENT FOR DROPPING EMBARGO ON IMPORTS OF USED CARD AND PLANES. CANADA MADE WEAK REPLY BY DRAWING DISTINCTION BETWEEN REMOVING LEGAL COVER, FOR WHICH NO PAYMENT REQUIRED, AND REMOVING PRACTICES PROTECTED BY PROTOCOL.

4. GREY ALSO NOTED THAT SUBSIDIES CAN BE A BARRIER TO TRADE AND STATED THAT IN A NEGOTIATING CONTEXT, CANADA IS WILLING TO ACCEPT CONCEPT OF PROHIBITED EXPORT SUBSIDIES. HOWEVER HE SAW NO UTILITY TO LIST DRAFTED IN CTIP. WE SHOULD START WITH PROHIBITED LIST IN ARTICLE XVI:4 AND NEGOTIATE CAREFULLY THE POSSIBLE INCLUSION OF OTHERS. CONSULTATIONS SHOULD BE ROUTE TO FOLLOW WHEN ANOTHER PARTY IS IN BREACH OF SUBSIDY RULES, NOT AUTOMATIC APPLICATION OF COUNTERVAILING DUTY, WHICH IS CONTRARY TO GENERAL AGREEMENT AND SHOULD ONLY BE USED AS LAST RESORT AFTER OTHER ERMEDIES FAIL. FOR EXAMPLE, SOLUTION TO PROBLEM MIGHT BE A REDUCTION OF THE SUBSIDY, OR IMPOSITION OF AN EXPORT TAX.

5. IN MORE GENERAL DISCUSSION OF PROTOCOL OF PROVISIONAL APPLICATION, EC SAID THAT CONTINUED RESORT TO PROTOCOL RESULTED IN IMBALANCE OF COUNTRIES' OBLIGATIONS UNDER GATT. U.S. RESPONDED THAT PROTOCOL WAS PART OF BALANCE STRUCK IN 1948. REMOVAL OF PROTOCOL WITHOUT COMPENSATION, RATHER THAN REDRESSING IMBALANCE, WOULD IN FACT CREAT ONE.

6. SWEDEN, SPEAKING ON BEHALF OF NORDICS, DECRIED SUBSIDY RACE BROUGHT ON WHEN COUNTRIES PROVIDE ARTICICIAL AIDS TO IMPROVE COMPETITIVENESS OF THEIR EXPORTS. CERTAIN EXPORT SUBSIDY PRACTICES LIMITED OFFICIAL USE

LIMITED OFFICIAL USE

SHOULD BE PROHIBITED. SINCE LIST OF SUCH PRACTICES CANNOT BE EXHAUSTIVE, PROCEDURES FOR NOTIFICATION AND CONSULATATION ARE STILL NECESSARY.

7. JAPAN (WADA) INDICATED WILLINGNESS TO WORK ON PROHIBITED LIST BUT PLACED ONUS OF PROBLEM ON A DEVELOPED COUNTRY (READ U.S.) THAT DOES NOT REQUIRE AN INJURY TEST IN APPLYING COUNTER-VAILING DUTIES.

8. DELEGATIONS WERE NOT GENERALLY WILLING TO ENGAGE IN DISCUSSION OF U.S. QUESTIONS ON SUBSIDIES. HOWEVER, ON QUESTION WHETHER GATT ARTICLE XVI:4 AND GATT DECLARATION OF 1960 ARE ADEQUATE TO DEAL WITH PROBLEM OF EXPORT SUBSIDIES, EC SAID DECLARATION IS GENERALLY ADEQUATE, BUT COULD BE EXTENDED AND IMPROVED. U.S. RESPONDED BY LISTING A SERIES OF DEFICIENCIES

Declassified/Released US Department of State EO Systematic Review 30 JUN 2005

Declassified/Released US Department of State EO Systematic Review 30 JUN 2005

IN THE 1960 DECLARATION: ONLY 17 COUNTRIES ARE SIGNATORIES; IT
DOES NOT COVER PRIMARY PRODUCTS, ON WHICH MOST EXPORT SUBSIDIES
ARE APPLIED; ITS PROHIBITION IS CONTINGENT ON DUAL PRICING CRITERION,
ALTHOUGH EXPORT SUBSIDIES MAY BE PRESENT IN ABSENCE OF DUAL
PRICING; LIST OF PROHIBITED PRACTICES IS ILLUSTRATIVE ONLY; NO
PROVISION IS MADE FOR SANCTIONS; AND THERE IS NO ADEQUATE SOLUTION
FOR PROBLEM OF SUBSIDIZED EXPORTS GOING TO THIRD-COUNTRY MARKETS.

9. DIFFERENTIAL TREATMENT OF LDCS. IN PAPER DISTRIBUTED AT
MEETING (MTN/3B/W/3), BRAZIL, WITH WIDESPREAD LDC SUPPORT,
MADE CASE FOR DIFFERENTIAL TREATMENT OF SUBSIDIZED EXPORTS FROM
DEVELOPING COUNTRIES UNDER NEW TRADE RULES OR POSSIBLY UNDER
A SUBSIDY/CVD CODE. IN LINE WITH PRE-MEETING CONSULTATIONS
WITH BRAZIL AND COLUMBIA, U.S. INDICATED WILLINGNESS TO
EXPLORE POSSIBILITY OF DIFFERENTIAL TREATMENT OF DEVELOPING
COUNTRIES IN CONTEXT OF NEW AND COMPREHENSIVE RULES ON SUBSIDIES
AND COUNTERVAILING DUTIES COVERING ALL PRODUCTS. SAID SOMEWHAT
EARLY TO FOCUS ON SPECIFICS CONCERNING SUCH TREATMENT. THIS
DID NOT MEAN HOWEVER THAT CONSIDERATION NEED BE DEFERRED UNTIL
AFTER RULES HAVE BEEN DEVELOPED. EC EXPRESSED SYMPATHY FOR LDCS,BUT S
AID LDCS COULD NOT BE EXONERATED WHERE THERE WAS POSSIBILITY
OF INJURY. CANADA SPECULATED THAT IF MATERIAL INJURY REQUIREMENT
AND CONSULTATIVE PROCEDURES WERE NEGOTIATED, LDCS MIGHT NOT NEED
DIFFERENTIAL TREATMENT.

LIMITED OFFICIAL USE

NNN

LIMITED OFFICIAL USE

43
ACTION EB-11

INFO OCT-01 ISO-00 AGR-20 CEA-02 CIAE-00 COME-00 DODE-00

FRB-02 H-03 INR-10 INT-08 L-03 LAB-06 NSAE-00 NSC-07

PA-04 RSC-01 AID-20 CIEP-02 SS-20 STR-08 TAR-02

TRSE-00 USIA-15 PRS-01 SP-03 FEAE-00 OMB-01 SWF-02

AF-10 ARA-16 EA-11 EUR-25 NEA-14 OIC-04 IO-14 XMB-07

OPIC-12 DRC-01 /266 W
---------- 013115
R 041620Z JUN 74
FM USMISSION GENEVA
TO SECSTATE WASHDC 6231

Declassified/Released US Department of State EO Systematic Review 30 JUN 2005

Declassified/Released US Department of State EO Systematic Review 30 JUN 2005

INFO AMEMBASSY BERN
AMEMBASSY BONN
AMEMBASSY BOGOTA
AMEMBASSY BRUSSELS
USMISSION EC BRUSSELS
AMEMBASSY BUENOS AIRES
AMEMBASSY CANBERRA
AMEMBASSY COPENHAGEN
AMEMBASSY DUBLIN
AMEMBASSY THE HAGUE
AMEMBASSY HELSINKI
AMEMBASSY KUALA LUMPUR
AMEMBASSY LONDON
AMEMBASSY LUXEMBOURG
AMEMBASSY MEXICO
AMEMBASSY NEW DELHI
AMEMBASSY OSLO
AMEMBASSY OTTAWA
AMEMBASSY PARIS
USMISSION OECD PARIS
AMEMBASSY PRETORIA
AMEMBASSY ROME
AMEMBASSY STOCKHOLM
LIMITED OFFICIAL USE

LIMITED OFFICIAL USE

PAGE 02 GENEVA 03524 02 OF 02 041839Z

AMEMBASSY TOKYO
AMEMBASSY WELLINGTON

LIMITED OFFICIAL USE SECTION 2 OF 2 GENEVA 3524

10. DOMESTIC SUBSIDIES. DISCUSSION UNDERLINED FIFFICULTIRES OF DEALING WITH PROBLEM OF DOMESTIC SUBSIDIES STIMULATING EXPORTS. JAPAN NOTED THESE SUBSIDIES MAY HAVE LEGITIMATE OBJECTIVES, SO IT IS NOT ENOUGHT TO JUDGE THEM SIMPLY ON BASIS THEIR TRADE DISTORTING EFFECTS.FOR PRODUCTION OF GOODS AIDED BY DOMESTIC SUBSIDIES,NO DISTINCTION USUALLY MADE WHETHER SUCH GOODS FOR DOMESTIC CONSUMPTION OR FOR EXPORT. U.S. OBSERVED DOMESTIC SUBSIDIES CAN LEAD TO EXPORT STIMULATION AND/OR IMPORT SUBSTITUTION. DOMESTIC SUBSDIES FALL IN SO-CALLED GREY AREA TO WHICH NO PROHIBITION SHOULD APPLY UNLESS CERTAIN CRITERIA ARE MET. U.S. REFERRED IN THIS CONTEXT TO CRITERIA IT PROPOSED FOR EXAMINATION BY CTIP GROUP. CANADA SUGGESTED GROUP WORK TO ELABORATE NOTIFICATION AND CONSULTATION PROCEDURES FOR THESE DOMESTIC SUBSIDIES, A VIEW WHICH EC, JAPAN AND SWEDEN SUPPORTED. CANADA EMPHASIZED THAT SUBSIDIES WHICH INHIBIT IMPORTS ARE A PARTICULAR PROBLEM. SOME LDCS SUPPORTED VIEW THAT DOMESTIC SUBSIDIES ARE ESSENTIAL TO PROMOTE ECONOMIC DEVELOPMENT AND, THEREFORE, SHOULD BE PERMITTED.

11. COUNTERVAILING DUTIES. CANADIAN REP MADE LENGTHY STATEMENT

Declassified/Released US Department of State EO Systematic Review 30 JUN 2005

Declassified/Released US Department of State EO Systematic Review 30 JUN 2005

ON COUNTERVAILING DUTIES SIMILAR TO DRAFT MEMORANDUM GIVEN TO U.S. BEFORE MEETING. STATEMENT, WHICH TO BE DISTRIBUTED AS MTN DOCUMENT, SUGGESTS A CVD NEGOTIATING APPROACH ENCOMPASSING FOLLOWING ELEMENTS: CAREFULLY DEFINED MATERIAL INJURY REQUIREMENT APPLICABLE TO ALL PARTIES; DEFINITION OF TYPES OF SUBSIDIES SUBJECT TO

CVD; ELABORATION OF CONSULTATION REQUIREMENTS AND PROCEDURES. EC REP REITERATED EARLIER STATEMENTS, ADDING THAT DEVELOPMENT OF A CODE FOR INCLUSION WITHIN ARTICLE VI WOULD BE TIMELY AND THAT, DESPITE DEFICIENCIES, ANTI-DUMPTING CODE MIGHT BE USED AS MODEL. JAPAN PROPOSED GROUP PROCEED WITH DEVELOPMENT OF CVD CODE BEFORE CONCLUDING WORK ON SUBSIDIES.

12. U.S. REP UNDERSCORED POINT THAT EMPHASIS ON COUNTERVAILING DUTIES IS MISDIRECTED; AND SAID THAT SUCH EMPHASIS IS LIKE PUTTING CART BEFORE HOURSE. SUBSIDIES ARE SERIOUS TRADE DISTORTIONS
LIMITED OFFICIAL USE

LIMITED OFFICIAL USE

THAT MUST PRECEDE COUNTERVAIL ACTION. THEREFORE WHY SHOULD ONUS BE ON COUNTERVAILER INSTEAD ON ON SUBSIDIZER? RANGE OF SUBSIDIES TO BE COVERED BY NEW RULES SHOULD BE PRIORITY CONSIDERATION. FURTHERMORE, THESE RULES SHOULD PROVIDE FOR SANCTIONS. REGARDING INJURY, U.S. AGREED WITH CANADA THAT THERE IS A DIFFERENCE BETWEEN ANTI-DUMPTING AND COUNTERVAIL ACTIONS. THEREFORE, WHOLE CONCEPT OF INJURY SHOULD BE EXAMINED.

13. AFTER CONTENTIOUS FIRST-DAY EXCHANGE, U.S. INITIATED PRIVATE MEETING OF EC, CANADIAN, AND JAPANESE PRINCIPALS TO EXPLORE POSSIBILITY TURNING DISCUSSION ON MORE CONSTRUCTIVE PATH. ON PERSONAL BASIS, MEYNELL SAID EC WOULD SIT DOWN AND LOOK AT LIST OF PROHIBITED EXPORT PRACTICES IF U.S. HAS A TRADE BILL. BOTH EC AND CANADA FELT GATT EXERCISE MOVING TOO RAPIDLY AT TIME WHEN U.S. HAS NO TRADE BILL. GREY SAID SUBSIDY AND COUNTERVAILING ISSUES ARE LONG-TERM ONES FOR NEGOTIATION TOWARD END OF MTN, POSSIBLY AS PART OF SECTORAL NEGOTIATIONS. AGRICULTURAL SUBSIDIES PROBLEM ALSO WOULD PROBABLY HAVE TO BE SETTLED AS PART OF FINAL PACKAGE ON AGRICULTURE. KELLY STATED HIS CONCERN OVER LONG DELAY IN SEEKING SOLUTION, MAKING POINT U.S. ADMINISTRATION UNDER STRONG PRESSURE TO COUNTERVAIL IN INCREASING NUMBER OF CASES. U.S. CLEARLY INTERESTED IN NEGOTIATING ON THESE TWO ISSUES. POSITIVE MOVEMENT IN MTN EXERCISE SHOULD FAVORABLY INFLUENCE SENATE CONSIDERATION THIS ISSUE IN TRADE BILL, WHICH IN TURN COULD FACILITATE NEGOTIATIONS.

14. COMMENT: BOTH GREY AND MEYNELL RETAINED WITHOUT BLEMISH THEIR PERSONAL REPUTATIONS FOR LARGE EGOS AND ACID TONGUES. DEL BELIEVES, HOWEVER, THAT THESE TACTICS USED TO SERVE THEIR PURPOSE OF TRYING DOCUS WORK PRIMARILY ON COUNTERVAIL ISSUE. THIS HAS BEEN PREVIOUS EC POSITION AND, THEREFORE, NO NEW AND DIFFICULT INTRA-COMMUNITY DECISIONS ARE REQUIRED. ALTHOUGH

Declassified/Released US Department of State EO Systematic Review 30 JUN 2005

Declassified/Released US Department of State EO Systematic Review 30 JUN 2005

CANADA MORE FORTHCOMING THAN EC ON SUBSTANCE, IT APPEARS THAT
CANADA WANTS TOMESTIC SUBSIDIES THAT STIMULATE EXPORTS TO BE
EFFECTIVELY EXCLUDED FROM ANY SETTLEMENT SUBSIDY/COUNTERVAIL ISSUE.
THIS WOULD LEAVE CANADA FLEXIBILITY IT NEEDS TO CONTINUE TO FOSTER
SECONDARY INDUSTRIES AND TO INITIATE REGIONAL DEVELOPMENT PROGRAMS
ALONG LINES OF MICHELIN VENTURE.ABRAMS

LIMITED OFFICIAL USE

NNN

Declassified/Released US Department of State EO Systematic Review 30 JUN 2005

Declassified/Released US Department of State EO Systematic Review 30 JUN 2005

Message Attributes

Automatic Decaptioning: X
Capture Date: 01 JAN 1994
Channel Indicators: n/a
Current Classification: UNCLASSIFIED
Concepts: TRADE, EXPORTS, TARIFF NEGOTIATIONS, COUNTERVAILING DUTIES
Control Number: n/a
Copy: SINGLE
Draft Date: 04 JUN 1974
Decaption Date: 01 JAN 1960
Decaption Note:
Disposition Action: RELEASED
Disposition Approved on Date:
Disposition Authority: golinofr
Disposition Case Number: n/a
Disposition Comment: 25 YEAR REVIEW
Disposition Date: 28 MAY 2004
Disposition Event:
Disposition History: n/a
Disposition Reason:
Disposition Remarks:
Document Number: 1974GENEVA03524
Document Source: CORE
Document Unique ID: 00
Drafter: n/a
Enclosure: n/a
Executive Order: N/A
Errors: N/A
Film Number: D740141-0785
From: GENEVA
Handling Restrictions: n/a
Image Path:
ISecure: 1
Legacy Key: link1974/newtext/t19740678/aaaacpbp.tel
Line Count: 337
Locator: TEXT ON-LINE, ON MICROFILM
Office: ACTION EB
Original Classification: LIMITED OFFICIAL USE
Original Handling Restrictions: n/a
Original Previous Classification: n/a
Original Previous Handling Restrictions: n/a
Page Count: 7
Previous Channel Indicators:
Previous Classification: LIMITED OFFICIAL USE
Previous Handling Restrictions: n/a
Reference: n/a
Review Action: RELEASED, APPROVED
Review Authority: golinofr
Review Comment: n/a
Review Content Flags:
Review Date: 02 APR 2002
Review Event:
Review Exemptions: n/a
Review History: RELEASED <02 APR 2002 by izenbei0>; APPROVED <13 JUN 2002 by golinofr>
Review Markings:

Declassified/Released
US Department of State
EO Systematic Review
30 JUN 2005

Review Media Identifier:
Review Referrals: n/a
Review Release Date: n/a
Review Release Event: n/a
Review Transfer Date:
Review Withdrawn Fields: n/a
Secure: OPEN
Status: NATIVE
Subject: TNC SUBGROUP ON NTBS (3B)-SUBSIDIES AND COUNTER- VAILING-MAY 29-31
TAGS: ETRD, GATT
To: STATE
Type: TE
Markings: Declassified/Released US Department of State EO Systematic Review 30 JUN 2005

Declassified/Released US Department of State EO Systematic Review 30 JUN 2005